

Message Text

CONFIDENTIAL

PAGE 01 USUN N 02154 071857Z

ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 EPG-02 COME-00 DODE-00

DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00 H-01

INR-07 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01

OES-07 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

USIA-06 FEA-01 AF-10 ARA-10 EA-07 EUR-12 NEA-10

/162 W

-----090308 080156Z /72

R 071805Z JUL 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 4362

C O N F I D E N T I A L USUN 2154

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS SITREP - JULY 5, 1977

COMMITTEE I

1. THE ISSUE OF DISPUTE SETTLEMENT OCCUPIED THE FULL DAY IN COMMITTEE I, WITH VICE CHAIRMAN WUNSCH (GDR) PRESIDING IN THE MORNING AND IGUCHI (JAPAN) IN THE AFTERNOON. LAUTERPACHT (AUSTRALIA) DELIVERED A LENGTHY STATEMENT PROPOSING A NUMBER OF CHANGES TO THE RSNT ARTICLES (33 TO 36). HE SUGGESTED RETAINING IN PART I OF THE CONVENTION ONLY ARTICLES DEALING WITH JURISDICTIONAL ASPECTS OF DISPUTE SETTLEMENT OF DISPUTES ARISING UNDER PART I, INCLUDING ALL ARTICLES PROVIDING FOR THE STRUCTURAL AND PROCEDURAL ASPECTS IN PART IV (DISPUTE SETTLEMENT). LAUTERPACHT ALSO RECOMMENDED THAT THE CONVENTION ALLOW FOR ARBITRATION AT THE REQUEST OF ANY PARTY, A PROVISION WHICH COULD, IN EFFECT, CIRCUMVENT THE TRIBUNAL MECHANISM ALTOGETHER.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 02154 071857Z

2. THE NETHERLANDS (RIPHAGEN) NOTED THREE TYPES OF DISPUTES FOR WHICH THE CONVENTION OUGHT TO DESIGNATE A SETTLEMENT FORUM: (A) DISPUTES BETWEEN STATES, IN WHICH PARTIES COULD CHOOSE ANY FORA BUT FAILING AGREEMENT, THE CHOICE OF PROCEDURE PROVIDED IN ARTICLE 9. OF PART IV WOULD APPLY; (B) DISPUTES ON TECHNICAL

TERMS OF CONTRACTS, IN WHICH COMMERCIAL ARBITRATION WOULD APPLY, UNLESS THE PARTIES AGREED OTHERWISE; AND (C) OTHER DISPUTES (E.G. BETWEEN THE AUTHORITY AND STATES), WHICH WOULD GO TO THE DEEP SEABEDS CHAMBER.

3. THERE WAS GENERAL AGREEMENT THAT THE LOS TRIBUNAL SHOULD CONTAIN A SPECIAL DEEP SEABED CHAMBER. HOWEVER, SOME COUNTRIES STRESSING THE INDEPENDENCE OF THE CHAMBER FAVORED SELECTION OF THE SEABED CHAMBER BY AND FROM AMONG THE TRIBUNAL MEMBERS. OTHERS FAVORED THE PRESENT RSNT FORMULA, WHICH EMPOWERS THE ASSEMBLY, UPON THE RECOMMENDATION OF THE COUNCIL TO ELECT SEABED CHAMBER MEMBERS FROM AMONG THE MEMBERS OF THE 21 MEMBER TRIBUNAL.

4. THE US (SOHN) SUPPORTED THE DUTCH PROPOSAL. SOHN ALSO AGREED WITH THE AUSTRALIAN RECOMMENDATIONS TO STREAMLINE THE DISPUTE SETTLEMENT ARTICLES IN PART I. ON THE ELECTION OF TRIBUNAL JUSTICES, SOHN SUGGESTED THAT A FOUR-FIFTH ASSEMBLY MAJORITY WOULD BE MORE APPROPRIATE THAN THE TWO-THIRD REQUIREMENT NOW PROVIDED IN THE RSNT.

5. ON THE QUESTION OF WHAT ACTS OF THE AUTHORITY SHOULD BE SUBJECT TO TRIBUNAL REVIEW, SOME DELEGATES SOUGHT TO DRAW DISTINCTION BETWEEN LEGISLATIVE AND DISCRETIONARY ACTS ON THE ONE HAND AND ADMINISTRATIVE, CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 02154 071857Z

OR QUASI-JUDICIAL ACTS ON THE OTHER; THE FORMER WOULD NOT BE JUSTICIABLE, WHEREAS THE LATTER WOULD BE. PERU (DE SOTO) ADDED A FURTHER CATEGORY OF DISCRETIONARY ACTS, WHICH HE SAID COULD NOT BE SUBJECT TO DISPUTE SETTLEMENT. ACCORDING TO PERU, CONTRACT APPROVAL WOULD PROBABLY FALL UNDER THE DISCRETIONARY CATEGORY.

6. COMMITTEE II MET IN INFORMAL PLENARY TO CONSIDER PROGRESS REPORTS FROM THE CHAIRMEN OF THE THREE CONSULTATIVE GROUPS. THE CHAIRMAN (TURKMEN) OF CONSULTATIVE GROUP I (LEGAL STATUS) REPORTED THAT AN IMPASSE HAS DEVELOPED IN THAT GROUP ON ARTICLE 44, 46, AND 75. HE DOUBTED IF FURTHER PROGRESS COULD BE MADE ON THESE ISSUES UNDER THE PRESENT PROCEDURAL FRAMEWORK. THE CHAIRMAN OF COMMITTEE II (AQUILAR) REJECTED THE RECOMMENDATION OF SOME DELEGATIONS, E.G. TANZANIA AND PERU, THAT THE WORKING GROUP BE DISMANTLED, AND INSTEAD INSTITUTED QTE A COOLING-OFF PERIOD UNQTE DURING WHICH HE WOULD SEEK A PROMOTE CONSULTATIONS WITH A VIEW TOWARD ARRIVING AT A COMPROMISE FORMULATION ON THE JURIDICAL STATUS OF THE EEZ. IT WAS AGREED, HOWEVER,

THAT THE CONSULTATIVE GROUP WILL NOT REPEAT NOT MEET AGAIN UNLESS AQUILAR DECIDES THAT A BASIS OF ACCOMMODATION HAS EMERGED FROM PRIVATE CONSULTATIONS.

7. ATTENTION TURNED TO A CONSIDERATION OF QTE OTHER PROVISIONS UNQTE OF CHAPTER III (ECONOMIC ZONE). THE CHANGE OF FOCUS OPENED A NUMBER OF ISSUES, WHICH, AS SOME DELS. LATER POINTED OUT, WERE THOUGHT TO HAVE BEEN SETTLED IN PREVIOUS SESSIONS OF THE CONFERENCE. YUGOSLAVIA AND POLAND TABLED AMENDMENTS TO ARTICLE 51 (UTILIZATION OF LIVING RESOURCES), PARAS 2 AND 3, WHICH WOULD HAVE THE EFFECT OF GIVING PREFERENTIAL TREATMENT AND PRIORITY ACCESS TO DEVELOPING COUNTRIES VIS-A-VIS THE SURPLUS FISH STOCK OF COASTAL STATES. THESE
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 02154 071857Z

AMENDMENTS PRECIPITATED A FLOOR OF SUGGESTED SUBSTANTIVE LANGUAGE, AND STRUCTURAL CHANGES TO ARTICLES 50, 51 AND 58(1) BY STATES AS DIVERSE AS PERU, GDR, POLAND, UGANDA, DENMARK AND ZAMBIA.

8. THE SOVIET UNION TOOK THIS OCCASION TO INTRODUCE ITS AMENDMENTS TO ARTICLE 55, PARAS (1), (2), AND (3), THE TEXT OF WHICH HAS PREVIOUSLY BEEN REPORTED (USUN 2022). THE SOVIETS ALSO SUPPORTED AN AMENDMENT, INITIALLY TABLED BY THE GDR, TO DELETE THE ENUMERATION OF COASTAL STATE REGULATORY RIGHTS IN RESPECT TO FISHERY CONSERVATION AND UTILIZATION CONTAINED IN ARTICLE 51 - (A) THROUGH (K). THE UK (SPEAKING ON BEHALF OF THE EEC) CANADA, NORWAY, AND JAPAN STRONGLY OPPOSED THE SOVIET AMENDMENT.

9. THE CHAIRMAN OF CONSULTATIVE GROUP II (CONTINENTAL SHELF/REVENUE SHARING) AND III (DELIMITATION) MADE SUMMATIONS ESSENTIALLY IN KEEPING WITH THOSE WHICH THEY MADE PREVIOUSLY IN THEIR RESPECTIVE WORKING GROUPS, THE SUBSTANCE OF WHICH HAVE RECENTLY BEEN REPORTED. AUSTRIA ASSERTED AGAIN, PRESUMABLY SPEAKING ON BEHALF OF THE LL/GDS GROUP, THAT IT ACCOMMODATION ON ISSUES OF VITAL IMPORTANCE TO OTHER GROUPS AND DELEGATIONS WAS STILL CONTINGENT UPON A QUID PRO QUO, ESPECIALLY IN RESPECT TO CONCESSIONS ON ARTICLES 58, 59, AND THE INCLUSION OF A REASONABLE FACSIMILE OF ITS ARTICLE 65 BIS IN A FINAL RESOLUTION OF THE CONFERENCE. CYPRUS RENEWED ITS POSITION ON INCLUDING THE CONTINGUOUS ZONE UNDER THE DELIMITATION REGIME BETWEEN OPPOSITE AND ADJACENT STATES. THE CHAIRMAN (JACHEK) OF CG-III STATED HIS WILLINGNESS TO CONTINUE THE MEETINGS OF HIS WORKING GROUP TO EXAMINE NEW COMPROMISE PROPOSALS ON DELIMITATION AND/OR TO ATTEMPT TO FASHION NEW WORKING
CONFIDENTIAL

CONFIDENTIAL

PAGE 05 USUN N 02154 071857Z

METHODS FROM WHICH SUCH COMPROMISES MIGHT EMERGE.

LEONARD

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, DISPUTE SETTLEMENT, COMMITTEE MEETINGS
Control Number: n/a
Copy: SINGLE
Sent Date: 07-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USUNN02154
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770242-0474
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770780/aaaacrxa.tel
Line Count: 178
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 45f9146f-c288-dd11-92da-001cc4696bcc
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1931280
Secure: OPEN
Status: NATIVE
Subject: LOS SITREP - JULY 5, 1977 COMMITTEE I
TAGS: PLOS, XX, UN
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/45f9146f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009